

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 734

Introduced by Urban Affairs Committee: Friend, 10, Chairperson;
Combs, 32; Connealy, 16; Cornett, 45; Janssen, 15;
Landis, 46; Schimek, 27

Read first time January 19, 2005

Committee: Urban Affairs

A BILL

- 1 FOR AN ACT relating to sanitary and improvement districts; to amend
- 2 section 31-735, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to the election of a board of
- 4 trustees; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 31-735, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 31-735. (1) On the first Tuesday after the second Monday
4 in September which is at least fifteen months after the judgment of
5 the district court creating a sanitary and improvement district and
6 on the first Tuesday after the second Monday in September each two
7 years thereafter, the board of trustees shall cause a special
8 election to be held, at which election a board of trustees of five
9 in number shall be elected. Each member elected to the board of
10 trustees shall be elected to a term of two years and shall hold
11 office until such member's successor is elected and qualified. Any
12 person desiring to file for the office of trustee may file for such
13 office with the election commissioner, or county clerk in counties
14 having no election commissioner, of the county in which the greater
15 proportion in area of the district is located not later than fifty
16 days before the election. If such person will serve on the board
17 of trustees as a designated representative of a limited
18 partnership, general partnership, limited liability company,
19 public, private, or municipal corporation, estate, or trust which
20 owns real estate in the district, the filing shall indicate that
21 fact and shall include appropriate documentation evidencing such
22 fact. No filing fee shall be required. A person filing for the
23 office of trustee to be elected at the election held four years
24 after the first election of trustees and each election thereafter
25 shall designate whether he or she is a candidate for election by
26 the resident owners of such district or whether he or she is a
27 candidate for election by all of the owners of real estate located
28 in the district. If a person filing for the office of trustee is a

1 designated representative of a limited partnership, general
2 partnership, limited liability company, public, private, or
3 municipal corporation, estate, or trust which owns real estate in
4 the district, the name of such entity shall accompany the name of
5 the candidate on the ballot in the following form: (Name of
6 candidate) to represent (name of entity) as a member of the board.
7 The name of each candidate shall appear on only one ballot.

8 The name of a person may be written in and voted for as a
9 candidate for the office of trustee, and such write-in candidate
10 may be elected to the office of trustee. A write-in candidate for
11 the office of trustee who will serve as a designated representative
12 of a limited partnership, general partnership, limited liability
13 company, public, private, or municipal corporation, estate, or
14 trust which owns real estate in the district shall not be elected
15 to the office of trustee unless (a) each vote is accompanied by the
16 name of the entity which the candidate will represent and (b)
17 within ten days after the date of the election the candidate
18 provides the county clerk or election commissioner with appropriate
19 documentation evidencing his or her representation of the entity.
20 Votes cast which do not carry such accompanying designation shall
21 not be counted.

22 A trustee shall be an owner of real estate located in the
23 district or shall be a person designated to serve as a
24 representative on the board of trustees if the real estate is owned
25 by a limited partnership, general partnership, limited liability
26 company, public, private, or municipal corporation, estate, or
27 trust. Notice of the date of the election shall be mailed by the
28 clerk of the district not later than sixty-five days prior to the

1 election to each person who is entitled to vote at the election for
2 trustees whose property ownership or lease giving a right to vote
3 is of record on the records of the register of deeds as of a date
4 designated by the election commissioner or county clerk, which date
5 shall be not more than seventy-five days prior to the election.

6 (2) For any sanitary and improvement district, persons
7 whose ownership or right to vote becomes of record or is received
8 after the date specified pursuant to subsection (1) of this section
9 may vote when such person establishes their right to vote to the
10 satisfaction of the election board. At the first election and at
11 the election held two years after the first election, any person
12 may cast one vote for each trustee for each acre of unplatted land
13 or fraction thereof and one vote for each platted lot which he or
14 she may own in the district. At the election held four years after
15 the first election of trustees, two members of the board of
16 trustees shall be elected by the legal property owners resident
17 within such sanitary and improvement district and three members
18 shall be elected by all of the owners of real estate located in the
19 district pursuant to this section. Every resident property owner
20 may cast one vote for a candidate for each office of trustee to be
21 filled by election of resident property owners only. Such resident
22 property owners may also each cast one vote for each acre of
23 unplatted land or fraction thereof and for each platted lot owned
24 within the district for a candidate for each office of trustee to
25 be filled by election of all property owners. For each office of
26 trustee to be filled by election of all property owners of the
27 district, every legal property owner not resident within such
28 sanitary and improvement district may cast one vote for each acre

1 of unplatted land or fraction thereof and one vote for each platted
2 lot which he or she owns in the district. At the election held
3 eight years after the first election of trustees and at each
4 election thereafter, three members of the board of trustees shall
5 be elected by the legal property owners resident within such
6 sanitary and improvement district and two members shall be elected
7 by all of the owners of real estate located in the district
8 pursuant to this section, except that if more than fifty percent of
9 the homes in any sanitary and improvement district are used as a
10 second, seasonal, or recreational residence, the owners of such
11 property shall be considered legal property owners resident within
12 such district for purposes of electing trustees, and at the
13 election held six years after the first election of trustees and at
14 each election thereafter, three members of the board of trustees
15 shall be elected by the legal property owners resident within such
16 sanitary and improvement district and two members shall be elected
17 by all of the owners of real estate located in the district
18 pursuant to this section. If there are not any legal property
19 owners resident within such district or if not less than ninety
20 percent of the area of the district is owned for other than
21 residential uses, the five members shall be elected by the legal
22 property owners of all property within such district as provided in
23 this section. Any public, private, or municipal corporation owning
24 any land or lot in the district may vote at such election the same
25 as an individual. For purposes of voting for trustees, each
26 condominium apartment under a condominium property regime
27 established prior to January 1, 1984, under the Condominium
28 Property Act or established after January 1, 1984, under the

1 Nebraska Condominium Act shall be deemed to be a platted lot and
2 the lessee or the owner of the lessee's interest, under any lease
3 for an initial term of not less than twenty years which requires
4 the lessee to pay taxes and special assessments levied on the
5 leased property, shall be deemed to be the owner of the property so
6 leased and entitled to cast the vote of such property. When
7 ownership of a platted lot or unplatted land is held jointly by two
8 or more persons, whether as joint tenants, tenants in common,
9 limited partners, members of a limited liability company, or any
10 other form of joint ownership, only one person shall be entitled to
11 cast the vote of such property. The executor, administrator,
12 guardian, or trustee of any person or estate interested shall have
13 the right to vote. No corporation, estate, or irrevocable trust
14 shall be deemed to be a resident owner for purposes of voting for
15 trustees. Should two or more persons or officials claim the right
16 to vote on the same tract, the election board shall determine the
17 party entitled to vote. Such board shall select one of their
18 number chairperson and one of their number clerk. In case of a
19 vacancy on such board, the remaining trustees shall fill the
20 vacancy on such board until the next election.

21 (3) The election commissioner or county clerk shall hold
22 any election required by subsection (1) of this section by sealed
23 mail ballot by notifying the board of trustees on or before July 1
24 of a given year. The election commissioner or county clerk shall,
25 at least twenty days prior to the election, mail a ballot and
26 return envelope to each person who is entitled to vote at the
27 election and whose property ownership or lease giving a right to
28 vote is of record with the register of deeds as of the date

1 designated by the election commissioner or county clerk, which date
2 shall not be more than seventy-five days prior to the election.
3 The ballot and return envelope shall include: (a) The names and
4 addresses of the candidates; (b) room for write-in candidates; and
5 (c) instructions on how to vote and return the ballot. Such
6 ballots shall be returned to the election commissioner or county
7 clerk no later than 10 a.m. of the first Thursday following the
8 election.

9 Sec. 2. Original section 31-735, Reissue Revised
10 Statutes of Nebraska, is repealed.